

ESTTA Tracking number: **ESTTA13162**

Filing date: **08/11/2004**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	WestPoint Stevens Inc. I
Granted to Date of previous extension	08/11/2004
Address	WestPoint Stevens Inc. I 3995 Howard Hughes Parkway Suite 250 Las Vegas, NV 89109 UNITED STATES

Attorney information	Mary Donovan Donovan & Yee LLP 110 Greene Street Suite 700 New York, NY 10012 UNITED STATES ajakobsson@yeellp.com
-----------------------------	--

Applicant Information

Application No	76530984	Publication date	04/13/2004
Opposition Filing Date	08/11/2004	Opposition Period Ends	08/11/2004
Applicant	lux international inc.		

Goods/Services Affected by Opposition

Class 024. First Use: 20021231 First Use In Commerce: 20021231

All goods and services in the class are opposed, namely: Textiles and textile goods, namely, household linen, table linen, bath linen, bed linen, coasters, table cloths, bed sheets, spreads, blankets, quilts, throws, comforters, mattress covers, seat covers, pillow shams, pillow cases, curtains, tapestries, calico, flags, labels, canvas for tapestry, non-woven textiles, namely, felt for tapestry, duvet covers, cushion covers, cotton fabrics, washing mitts, oven mitts, pot holders, fabric table runners, handkerchiefs, towels of textile, namely, bath towels, beach towels, face towels, hand towels, hooded towels, kitchen towels, and tea towels, place mats, and cloth napkins

Attachments	Notice of Opposition.pdf (4 pages)
--------------------	--------------------------------------

Signature	/mary donovan/
Name	Mary Donovan
Date	08/11/2004

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**IN THE MATTER OF TRADEMARK APPLICATION
SERIAL NO. 76/530,984 PUBLISHED IN THE
OFFICIAL GAZETTE ON APRIL 13, 2004
MARK: LUXÉ & DESIGN**

-----X

WESTPOINT STEVENS INC. I	:	
	Opposer,	: <u>OPPOSITION NO.</u>
	v.	:
LUXÉ INTERNATIONAL INC.		
		:
	Applicant.	:

-----X

Commissioner for Trademarks
BOX TTAB - FEE
2900 Crystal Drive
Arlington, Virginia 22202

NOTICE OF OPPOSITION

WestPoint Stevens Inc. I ("Opposer") is a corporation organized under the laws of Delaware with an office at 3993 Howard Hughes Parkway, Suite 250, Las Vegas, Nevada 89109. Opposer believes it will be damaged by the registration of the mark LUXÉ & Design as shown in the above-identified application and hereby opposes the same. Opposer has extended the time to oppose the application until August 11, 2004.

The grounds for opposition are as follows:

1. For over 100 years, Opposer, through its predecessors, has been one of America's leading manufacturers of bed and bath linens. Over the years Opposer's business has expanded to include kitchen linens, shower curtains, draperies, and wall coverings.

2. Opposer, through its predecessors, has used its LUXOR mark since at least as early as 1949 in connection with bath towels, hand towels, and washcloths, and at least as early as June 25, 2003, in connection with bath rugs and bath mats. ("Opposer's Mark").

3. Opposer's Mark is the subject of incontestable Registration No. 738,713 dated October 2, 1962, in International Class 24 and Application Serial No. 78/194,515, dated December 13, 2002, in International Class 27, both which are valid and subsisting and the mark shown therein is currently in use.

4. As a result of extensive sales, advertising and promotion of products bearing Opposer's Mark, the mark has come to identify Opposer as the exclusive source of these goods in the minds of the relevant consumers, and the goods sold in connection with the Mark have come to be known to the relevant purchasing public throughout the United States as goods of the highest quality. As a result thereof, Opposer's Mark and the goodwill associated therewith is of inestimable value to Opposer.

5. Applicant seeks to register the mark LUXÉ & Design in connection with the following goods in International Class 24: "textiles and textile goods, namely, household linen, table linen, bath linen, bed linen, coasters, table cloths, bed sheets, spreads, blankets, quilts, throws, comforters, mattress covers, seat covers, pillow shams, pillow cases, curtains, tapestries, calico, flags, labels, canvas for tapestry, non-woven

textiles, namely, felt for tapestry, duvet covers, cushion covers, cotton fabrics, washing mitts, oven mitts, pot holders, fabric table runners, handkerchiefs, towels of textile, namely, bath towels, beach towels, face towels, hand towels, hooded towels, kitchen towels, and tea towels, place mats, and cloth napkins." Publication of Applicant's mark was in the April 13, 2004 issue of the Official Gazette.

6. Applicant's LUXÉ & Design mark is visually, phonetically and connotatively confusingly similar with Opposer's Mark and creates a confusingly similar commercial impression. Both marks consist of two syllables starting with "lux" and the marks contain no additional distinguishing words. The marks are also used on identical or closely related products and, upon information and belief, will be marketed through the same and/or similar channels of trade. The close resemblance of the marks to each other will likely cause confusion or cause consumers to believe that Opposer has authorized or endorsed the quality of Applicant's goods.

7. Applicant's registration and use of the LUXÉ & Design mark is likely to cause confusion, or to cause mistake, or to deceive purchasers into believing that Applicant's goods originate with or are in some way sponsored, endorsed, licensed, associated or otherwise authorized or connected with Opposer. Such confusion would irreparably harm and damage Opposer since Opposer has no control over the nature or quality of the goods provided or produced by Applicant under the LUXÉ & Design mark.

8. By reason of the foregoing, Opposer will be damaged by Applicant's registration of the mark LUXÉ & Design.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and that the registration by Applicant of the mark LUXÉ & Design be refused.

Dated: August 11, 2004

Respectfully submitted,

DONOVAN & YEE, LLP
Attorneys for Opposer

By: _____

Mary A. Donovan
Anna Jakobsson

110 Greene Street, Suite 700
New York, NY 10012
(212) 226-7700